

Remarks

This is in response to the final office action dated October 31, 2005 and January 22, 2009 decision (mail date January 23, 2009) of the Board affirming, in part, the rejections set forth in the patent application. Claims 1-11 stand rejected.

An RCE together with the required fee is submitted herewith following the decision by the Patent Office Board of Appeals and Interferences on January 22, 2009. In the event an extension of time is necessary or required, please consider this as a conditional petition for an extension of time and please charge deposit account 23-3060 therefor.

The claimed invention has met with considerably huge volume sales. Evidence of the commercial success of the invention will be presented to the Patent Office.

Please cancel claims 1-11. Please add new claims 12-13.

The subject matter of claim 11 is included in new claim 12. No new matter is included in new claim 12 and the elements and limitations recited in new claim 12 are supported by the instant specification. It is believed that new claim 12 is not anticipated by Selle '320 and it is believed that new claim 12 is patentable and is not obvious over that AAPA in view of Selle '968.

Claim 12 positively recites the curvilinear track and the threshold adjustment devices. Selle '320 doesn't disclose a head guide and a nut guide. Nor does Selle '320 include a generally vertically oriented slot therethrough. The vertical slot in Selle '320 is not all the way through the track. Claim 12 recites a first generally horizontal slot therethrough and a second generally horizontal slot therethrough. At best Selle '320

includes just one horizontal slot therethrough. As recited in claim 12, the first generally horizontal slot traverses the generally vertically oriented slot forming a nut guide having a nut guide height and the second generally horizontally oriented slot traverses the generally vertically oriented slot forming a head guide having a head guide height.

Claim 12 further requires that the nut guide height of the first generally horizontally oriented slot is greater than the head guide height of the second generally horizontally oriented slot. Claim 12 further recites that the first generally vertically oriented slot terminates in a rimmed edge portion. None of this structure is disclosed or suggested in Selle '320.

Claim 12 positively recites that each of the threshold adjustment devices includes a threaded stud which includes a support head and a shoulder. Claim 12 further recites the head of the threaded stud includes a lower surface and an upper surface and being cylindrically shaped having a second width. Claim 12 further positively recites a U-shaped in cross-section nut having a central portion, a first end and a second end. Claim 12 further positively recites the first end of the nut includes a rectangularly shaped forward flange extending therefrom having a first height and a first top portion and that the nut includes a rectangularly shaped rearward flange extending therefrom having a second height and a second top portion.

Further claim 12 recites that the forward flanges of the threshold adjustment devices engage the rearward flanges of respective adjacent threshold adjustment devices. Further claim 12 positively recites the threshold adjustment devices being vertically movable with respect to the adjacent threshold devices, the forward and rearward flanges of adjacent threshold adjustment devices being vertically movable with respect to each

other, and the vertical movement of the forward and rearward flanges limited by the first top portion of the forward flange and/or the second top portion of the forward flange interengaging the rimmed edge portion of the first vertical slot and the head guide.

Further, claim 12 positively recites the heights of the forward and the rearward flanges of adjacent threshold adjustment devices, when combined, form a combined height of the flanges. The nut guide height and the head guide height, when combined, form a combined height of the guides and the combined height of the forward and rearward flanges exceeds the combined heights of the guides which prohibits shingling and/or jamming of the adjacent threshold devices residing in the curvilinear delivery track.

None of this structure is disclosed in Selle ‘320. Further, claim 12 recites that the vertical movement of the adjustment devices is limited by interengagement of the upper surface of the threaded stud with the rimmed edge portion of the slot and the head guide which prohibits shingling and/or jamming of the adjacent threshold devices residing in the curvilinear delivery track.

In regard to the AAPA in view of the teachings of Selle ‘968, the delivery track and the threshold adjustment devices are now set forth positively. The delivery track as recited in claim 12 would not lead a person of ordinary skill in the art to conclude that the track of the AAPA would be capable of delivering the positively claimed threshold adjustment device. For instance, claim 12 positively recites the heights of the forward and the rearward flanges of adjacent threshold adjustment devices, when combined, form a combined height of the flanges. The nut guide height and the head guide height, when combined, form a combined height of the guides and the combined height of the forward and rearward flanges exceeds the combined heights of the guides which prohibits

shingling and/or jamming of the adjacent threshold devices residing in the curvilinear delivery track. None of this structure is disclosed in the AAPA or in Selle ‘968. Further, claim 12 recites that the vertical movement of the adjustment devices is limited by interengagement of the upper surface of the head of the threaded stud with the rimmed edge portion of the slot and the head guide which prohibits shingling and/or jamming of the adjacent threshold devices residing in the curvilinear delivery track. The claimed arrangement of the track and the claimed structure of the threshold adjustment device are entirely new and not suggested by the AAPA and/or Selle ‘968.

In regard to claim 13, a threshold adjustment device in combination with a threshold is claimed. Claim 13 includes the subject matter of claims 1-11 in pertinent part together with elements and limitations not previously set forth. No new matter is included in new claim 13 and the elements and limitations recited new claim 13 are supported by the instant specification. It is believed that new claim 13 is not anticipated by Bursk and it is believed that new claim 13 is patentable and not obvious over that AAPA in view of Selle ‘968. Without repeating the entirety of claim 13 here on an element by element basis and a limitation by limitation basis, the structure of the threshold is entirely different and the structure for adjusting the threshold is entirely different. For instance in the claimed invention it is the head of the threaded stud which engages the floor, frame or other structure and raises and lowers the threshold to ensure that the door closes properly. Bursk doesn’t have any of the structure.

Claim 13 recites a threshold which includes a channel. The channel includes a first vertically oriented support wall, a second vertically oriented support wall, and an intermediate horizontally extending wall. Claim 13 recites that the intermediate

horizontally extending wall includes a floor-side surface and a threshold-side surface. The threshold further includes a horizontally extending threshold surface and a mating wall. Claim 13 further recites that the horizontally extending threshold surface further includes an aperture therein enabling access to the second adjustment receptacle of said threaded stud. The AAPA and Selle '968 do not render claim 13 obvious. Further, the APPA and Selle '968 do not disclose the elements of the threshold adjustment devices as set forth hereinabove in regard to claim 12.

Summary

Claims 12 and 13 are in the application. Examination of claims 12 and 13 is requested.

The undersigned wishes to thank the Patent Office Patent Office Board of Appeals and Interferences for its decision.

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An RCE together with the required fee is submitted herewith following the decision by the Patent Office Board of Appeals and Interferences on January 22, 2009. In the event any excess claims fees are required, please consider this as authority to charge deposit account 23-3060 for any fees deemed necessary for claims.

In the event an extension of time is necessary or required, please consider this as a conditional petition for an extension of time and please charge deposit account 23-3060 therefor.

Please cancel claims 1-11. Please add new claims 12-13.

Respectfully Submitted,
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